

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MONTGOMERY ELLIOTT
Plaintiff,

v.
MICHAEL J. ASTRUE,
COMMISSIONER OF SOCIAL
SECURITY,

Case No: 06-14195

Defendant.

ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

This matter case was referred to United States Magistrate Judge R. Steven Whalen pursuant to 28 U.S.C. §636(b)(1)(B) and Local Rule 72.1. The magistrate judge issued his report on September 20, 2007, recommending that defendant's motion for summary judgment should be granted, and that plaintiff's motion for summary judgment be DENIED. No objections have been filed pursuant to 28 U.S.C. 636(b)(1)(C), thus further appeal rights are waived.¹

Having reviewed the file and the report, the court concludes that the findings and conclusions of the Magistrate Judge are correct and ADOPTS the same for purposes of this Order.

¹ The failure to object to the magistrate judge's report releases the court from its duty to independently review the motion. *Thomas v. Arn*, 474 U.S. 140, 149 (1985).

ORDER

IT IS ORDERED that, for the reasons set forth in the Magistrate Judge's Report and Recommendation, the Defendant's motion for summary judgment is **GRANTED**.

IT IS SO ORDERED.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: October 10, 2007

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, October 10, 2007, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522